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Philippine Oil Deregulation amid the Oil Crisis: A Policy Paper

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By Marlou Mumar

I. INTRODUCTION

The unabated oil price increases in the first two months of 2011 has caused the policymakers and the public to fear as this situation signals high cost of basic commodities and services. The people casts doubt on the effectiveness of oil deregulation policy, which over a decade ago was seen as a viable solution to bring fair oil prices in the market. In 1998, the Downstream Oil Industry Deregulation Act was passed in high hopes that oil deregulation policy would immediately secure the Philippines from the vulnerability of oil price shocks due to its heavy dependence on imported oil. It's been a decade of progressively implementing the policy, yet the country is still vulnerable.

At the heart of the Republic Act No. 8479 is the policy of the state that deregulates the oil industry to "foster a truly competitive market which can better achieve the social policy objectives of fair prices and adequate, continuous supply of environmentally-clean and high quality petroleum

products” (Congress 1998). With downstream oil deregulation, government allows market competition. That means government does not interfere with the pricing, exportation, and importation of oil products, even the establishment of retail outlets, storage depots, ocean-receiving facilities, and refineries.

In 2005, the world was shocked when prices of oil climbed up to \$50 per barrel. The Philippines felt the whip of the oil crisis as then President Macapagal-Arroyo considered forceful and drastic steps, including fuel rationing and shorter working hours in government offices, in order to prevent the worst-case scenario that maybe caused by the oil crisis. In her State of the Nation Address in that same year, she revealed that the competitiveness of the Philippine economy is greatly endangered by the global oil crisis” (Arroyo 2005). Six years later, year 2011, prices of oil climbed even farther at \$100 per barrel. Is there a reason for the government and the public to be more alarmed?

The country is in a roller coaster ride of global oil price hikes. Crude prices were up in Asian trade in this month of the year on forecasts of a decrease in US stockpiles and as protests to oust Egyptian President Hosni Mubarak intensified. The political mayhem in Egypt is the latest oil-price catalyst to appear, and is yet another candidate to help push 2011 oil prices closer to the predicted \$150-a-barrel level. Analysts worry that Egypt’s chaos could disrupt the millions of barrels of oil that pass through the Suez Canal (Shannon 2011).

Here in the Philippines, four rounds of oil price increases have already been experienced in just the first two months of 2011. So far, no one in the new administration of President Noynoy Aquino officially announces that there’s a crisis. But from the point of view of the public, what’s happening in the country and the world today, is an indicative of an oil crisis in the making. Oil Deregulation Law is once again the subject to debate.

II. THE POLICY SITUATION

A. The Policy Dynamics

When President Fidel Ramos started his administration in 1992, the country had already started experiencing the effects of power supply deficiencies, with major areas already experiencing power interruptions. The power crisis caused a slowdown in the national economy for nearly three years and prodded the government to initiate major reforms in order to rehabilitate

the energy sector (Viray 1998, p.461-90). In response to a power supply crisis, Ramos revived the plans to liberalize the downstream oil industry that had been cut short during the Aquino administration due to Gulf crisis. The government's efforts to enact an oil deregulation law were also intensified in 1995 when the Oil Price Stabilization Fund (OPSF) threatened the fiscal stability of the economy. Deregulation was thus seen as the solution to the recurring deficit.

The problem with the OPSF deficit was in part related to the highly political nature of oil prices, which encouraged government to defer price increases as much as possible in order to avoid public protest even at the expense of incurring a fiscal deficit. However, government mismanaged the fund by using it for non-oil purposes such as financing other government projects or funding the public sector deficit when it was in surplus (Pilapil 1996, p.12). At the height of a strong lobbying effort for deregulation by oil companies and despite the loud opposition of militant groups, the industry was eventually deregulated in 1996 with the enactment of RA 8180 (the Downstream Oil Industry Deregulation Act of 1996) in Congress.

However, Supreme Court affirmed in 1997 the unconstitutionality of RA 8180. The Court decision stemmed from three provisions in the law that were deemed to inhibit free competition and therefore, violated the anti-trust mandate of the 1987 Constitution (Supreme Court 1997). But pro-deregulation Congressmen quickly re-filed the oil deregulation bill leading to a new oil deregulation law. RA 8479 was then enacted to pave the way for the full deregulation of the downstream oil industry. The Supreme Court in 1998 ruled in favor of the constitutionality of the Downstream Oil Industry Deregulation Act of 1998. Since then, government has no longer control over the industry. What it can only do is monitoring.

This state policy was formulated and instituted under the regime of President Ramos who, in his flagship program called the *Philippines 2000*, envisioned to make the country globally competitive by pursuing the thrusts of deregulation, market liberalization, and privatization. The media then exposed the fact that the biggest factor that influenced the formulation of the policy was the perceived eventual bankruptcy of the Oil Price Stabilization Fund, which had been originally established by President Ferdinand Marcos for the purpose of minimizing frequent price changes brought about by exchange adjustments and/or an increase in world market prices of crude oil and imported petroleum products.

Influenced by the International Monetary Fund through the promised extended fund facility (EFF) loan worth \$650 million and other conditionalities, the Ramos administration argued that there was a need to deregulate the industry because under a regulated environment, prices are not allowed to rise and fall with market levels. This means that when prices went up, government had

to shell out money to subsidize the difference between the old and the new price. According to the National Economic Development Authority (NEDA), had the government opted not to deregulate, OPSF obligation would have ballooned to at least P8.3 billion in 1998. The P8.3 billion is equivalent to the construction of more than 4,500 kilometers of provincial roads, 51,000 deep wells of potable water, 25,000 school houses, or free rice for 20% of the poorest Filipinos (Bernales 1998).

Different from the upstream oil sector which covers the exploration and production of crude oil, the downstream oil industry activities include: a) importation of crude oil; b) processing and storing of intermediate and refined products at the refineries; c) product distribution to different bulk plants/depots through tankers/barges for Petron and new players and the Batangas-Manila pipeline for Caltex and Shell; and d) delivery of refined/finished products through tank trucks from the depots to the retail outlets and industrial consumers. In the case of liquefied petroleum gas (LPG), the product is transported in specialized bulk tankers/lorries to refilling plant where LPG is filled into cylinders and delivered to dealers/retail outlets for household/commercial use.

It is increasingly apparent that many are calling to scrap the law as six out of ten Filipinos favor the repeal of RA 8479 (Somosierra 2008). IBON Foundation reported that the Oil Deregulation Law has further strengthened the monopoly of the big oil companies as automatic oil price hikes are allowed. Consequently, other oil companies took advantage of the policy, hiking pump prices of all petroleum products by around 535% since the Oil Deregulation Law was first implemented in April 1996 (Somosierra 2007). The policy is also unable to solve or, at least, mitigate the effects of global oil crisis. After a decade of implementing the policy, many Filipinos are clueless about what really went wrong.

The Philippine downstream oil industry is currently dominated by two (2) major oil refining and marketing companies: Petron and Pilipinas Shell. The third oil refiner and marketer, Caltex Philippines, now only operates as a plain marketing and distributing company under the name "Chevron." The state-owned Philippine National Oil Company (PNOC) and Saudi Aramco jointly own Petron—each with a 40 percent stake, while the public holds the remaining 20 percent share (DOE website 2011).

Republic Act No. 8479 defined the regulatory framework for the downstream oil industry, based primarily on the guiding principle of a truly competitive market under a regime of fair prices, adequate supply of environmentally clean and high quality petroleum products. Under the law, adequate safeguards are provided to ensure that healthy competition would govern pricing, that

fair competition is promoted and that cartels and monopolies in the industry are prevented. Among these is the creation of a DOE-DOJ Task Force to address unreasonable rise in prices.

According to the Department of Energy, the downstream oil industry has sustained a modest growth after deregulation. The number of new players in the country has injected over 30 billion pesos in investments since 1994 (DOE Media Release 2009). But does the influx of new oil players ensure fair prices? Does oil deregulation policy achieve its social policy objectives of fair prices and adequate, continuous supply of environmentally-clean and high quality petroleum products?

Although the DOE shows relatively positive figures, the problem with oil—specifically the highly contentious pricing formula of the local oil companies—is far from over as the general public still perceives this policy as a failure to meet the goal of fostering a truly competitive market and reasonable oil prices. But the report of the Independent Review Committee (IRC) on the Oil Deregulation Law, formed by then Energy Secretary Vince Perez, makes clarification on this unyielding public perception.

The 60-page report concludes, “The main cause of oil price increases was the effect of major peso devaluation and increases in the international price of oil especially since we import practically all our oil product requirements.” It further clarifies that the frequency of price increases was said to be due to the positive government suasion for oil companies to spread major price increases over a longer period rather than in one big jump (Independent Review Committee 2005).

The former President herself, Gloria Macapagal Arroyo, acknowledges the fact that the frequent oil price increases are threatening to erode the very fiber of the Philippine society. She openly recognizes that this is an “oil crisis of global proportions” (PGMA Speech 2005). Unlike in 1998, the crisis today is seen to be more irreparable as the United States is facing what many economists describe as the worst economic downturn in its history, triggering unstoppable skyrocketing of oil prices and prices of foodstuffs around the world.

But why is the oil crisis a global crisis? Is it really beyond the government’s control as admitted by government officials (Xinhua News Agency 2005)?

The local oil players, like those in many other nations, buy the oil at the spot market. By “spot” is meant, that one buys the oil at a market only 24 to 48 hours before one takes physical (spot) delivery, as opposed to buying it 12 or more months in advance. In effect, the spot market inserted a financial middleman into the oil patch income stream.

Today, the oil price is largely set in the two *futures markets*: London-based International Petroleum Exchange (IPE) and the New York Mercantile Exchange (NYMEX). Here, traders or

investors buy or sell certain commodities like oil at a certain date in the future, at a specified price. Basically, traders invest in the futures market by buying futures contracts called “paper oil” or simply paper claim against oil. The very purpose of buying oil is not to wait for the actual delivery of the physical oil in the future, but to sell the paper oil to another trader at a higher price. That’s how investors engage in widespread speculation; and it is becoming a viscous cycle. Almost all countries, including the Philippines, buy the oil at the spot market where the price is already at its peak.

In a year 2000 study, Executive Intelligence Review (EIR) showed that for every 570 “paper barrels of oil”—that is futures contracts covering 570 barrels—traded each year, there was only one underlying physical barrel of oil. The 570 paper oil contracts pull the price of the underlying barrel of oil, manipulating the oil price. If the speculators bet long—that the price will rise—the mountain of bets pulls up the underlying price (Valdes 2005).

This only disproves the popular assumption that oil price hike has something to do with the “law of supply and demand.” In fact, as much as 60% of today’s crude oil price is pure speculation driven by large trader banks and hedge funds. It has nothing to do with the convenient myths of Peak Oil. It has everything to do with the control of oil and its price (Engdahl 2008).

In one of its statements concerning oil, IBON Foundation cited a study conducted by the U.S. Senate Permanent Subcommittee on Investigations, which revealed that 30 percent or more of the prevailing crude oil cost is driven only by speculation. IBON further cited that speculation adds about \$35 to a barrel of crude oil (Martinez 2008).

B. The Policy Problem

Understanding deeply the problem, the analyst identified the policy environment that has shaped the oil deregulation. This includes the regime characteristics of Ramos Administration and the succeeding ones, the socio-economic structure in 1990’s, and the presently prevailing international financial influence on the country’s economy and politics. The identified policy stakeholders, on the other hand, are the Filipino people, the President and the entire executive branch, Legislators, Supreme Court, the oil companies, NGO/advocacy groups, and media.

The worry of the public about the frequent oil prices increase is said to be a reaction to the perceived inaction of the government on the issue. There are lawmakers who view the problem as a matter of policy issue. There are several House Bills pending in Congress and Senate aiming amendments in the oil deregulation law to ensure transparency in the pricing of oil products and

encourage greater competition in the retail industry. A number of militant groups allege that the oil cartel in the country exists and causes skyrocketing oil prices. There are other stakeholders, on the other hand, that view the problem as over dependence on imported oil and lack of alternative sources of energy in the country. From both the Senate and Congress, many policymakers have filed various proposals aiming at encouraging renewable sources of energy that will eventually spur competition with the oil industry.

The Department of Energy, however, maintains the position that oil deregulation law is working and that the law has created a healthy competitive environment in the industry in terms of prices, quality of products and services, and improved availability of access to supply. Economists, on the other hand, view the problem as a result of the failed global economic system that triggers widespread speculation of oil prices in the world futures commodity market.

There are obviously many views. Some are conflicting while others are complementing. One thing is for sure, there's a problem. In high consideration of the policy situation mentioned above, there are questions that this policy paper aims to answer:

- 1) What are the factors that hinder the deregulation policy to foster its social policy objectives?
- 2) What are the policy options presented by stakeholders involved which can better achieve the social policy objectives of fair prices and adequate oil supply for energy consumption.
- 3) What strategy for implementation that has to be adopted for the preferred option/s?

Now the Philippines, along with other countries in the world, is facing what many economists call an "economic tsunami," it is high time to assess the country's oil deregulation policy to better understand how to fuel the country's dying economy and protect the general welfare.

III. SOLUTION ANALYSIS

A. Policy Paper Objectives

The problem addressed in this paper is how to solve the unabated surging of oil prices. The issue is whether to continue the deregulation as a state policy or to come up with an alternative, out-of-the box policy that will truly save the people from the threat of the oil price increases and make the Philippines an energy self-sufficient nation.

It is therefore the task of the analyst to unfold the truth about the Philippine oil deregulation policy and find real solutions to the sporadic oil crisis the Philippines has experienced. Specifically, the analyst seeks to discern the following:

1. The factors that hinder the deregulation policy to foster its social policy objectives.
2. The policy options presented by stakeholders involved which can better achieve the social policy objectives of fair prices and adequate oil supply for energy consumption?
3. The strategy for implementation that has to be adopted for the preferred option(s).

B. Methodology

In addressing the policy problem, the analyst employed the simplified stakeholder analysis as a way to determine the best state policy that will secure the Philippines from the vulnerability of oil price shocks due to its dependence on imported oil.

In an effort to discern the hindering factors in achieving fair prices of oil and the implementing strategies for the preferred energy policy option(s), the analyst utilized the purposive non-probability sampling strategy which becomes the basis for identifying individuals/groups that can serve as the unit of analysis. Key informants were identified to be the respondents. A set of criteria was defined to spell out the qualified respondents. This includes:

- a) A member or official of a government body, NGO, academe, or oil industry who has a known position on the oil deregulation and energy policy in the Philippines.
- b) With published scientific study, advocacy, or legislative proposals on the subject matter.

Two instruments/techniques were used to gather the necessary information for this policy paper: 1) documentary analysis and 2) open-ended, in-depth interview.

For documentary analysis, the researcher gathered information from reports, manuals, and records released by government offices such as the Department of Energy (DOE) and Congress. Also, the analyst researched on studies and other related literature published by NGO's, PO's, the academe, media, and the scientific community.

In the conduct of open-ended, in-depth interviews, on the other hand, the researcher utilized a guideline for questioning. The researcher initially planned to have discussion with DOE officials and NGO representatives to seek insights on the formulation of the interview guideline. However, due to conflict with schedule, the researcher resorted to seeking advice of a University of the Philippines graduate student majoring Statistics. The interview guideline contains open-ended questions that allow the researcher to obtain detailed information from selected key informants. Please see Appendices for the interview guideline.

The researcher initially planned to interview at least 10 respondents from the following sectors: 1) national government, 2) oil industry, 3) NGO's/PO's, and 4) academe. However, only five respondents were able to confirm their availability for the interview. Two respondents from government, one from an oil company, one from NGO, and also one respondent from the academic community. The analyst considers this number of respondents to be sufficient enough as this already a fair representation of the whole stakeholders involved in and/or affected by the oil deregulation.

In analyzing the data, the researcher adopted and modified the Logical Analysis/Matrix Analysis introduced by Matthew Miles and Huberman in their book "Qualitative Data Analysis, 2nd ed." Here, matrix presentation is used to outline the generalized responses gathered from the identified sources of information.

C. The Policy Alternatives

This section is composed of three sub-sections. The first sub-section presents the simplified stakeholder analysis synthesizing different proposed solutions for the policy problem. In an attempt to describe the dynamics of the Philippine oil deregulation, the second sub-section reveals the responses of selected key respondents who are members or officials of government bodies,

NGO, PO, academe, and oil industry. And last, the third one analyzes the alternatives presented by different stakeholders.

C.1 Simplified Stakeholder Analysis

In the face of the alarming oil price hike that threatens the survival of ordinary Filipino people, different stakeholders propose different solutions: 1) Maintain status quo; 2) Amendment of the Oil Deregulation Law; 3) Scrap/repeal the law; 4) Removal of 12% VAT on oil; 5) Seek alternative sources of energy; and 6) Engage in country-to-country oil agreement.

1. Maintain status quo

The six-person Independent Review Committee (IRC) on the Oil Deregulation Law chaired by Mr. Carlos Alindada, former commissioner of the Energy Regulatory Commission, echoes what government officials have been saying all along: Oil deregulation must continue, socially-sensitive petroleum products must not be subsidized, price increases are justified and most oil companies are losing money. The committee recommends that the DOE must effectively monitor oil prices regularly and consequently inform the public of its monitoring. This recommendation includes stronger inter-agency cooperation against illegal, unsafe and unfair practices in the oil service station and LPG sector. Also, the report recommends that the DOE should not propose or support any program that leads to any subsidy. IRC proposes that given the fact that Petron Corporation still has government representatives in its board, the oil company can serve as a “price moderator” in order for other oil players to set their competitive and fair pricing. The committee stresses that Petron suits the role since it is both a refiner and a market leader.

2. Amendment of the Deregulation Law

As the public keeps on experiencing the burden of the surging oil prices, many policy makers call to re-examine the Downstream Oil Industry Deregulation Act of 1998. President Noynoy Aquino expresses support to amend Oil Deregulation Law as the country already experiences unabated oil price increase (abs-cbnNEWS.com, 1-26-2011). Senator Ralph Recto, former Socioeconomic Planning Secretary, also favors the review of the Oil Deregulation Law, averring that “The DOE should be given the tools to find a balance between oil companies seeking profits and the interest of the public” (gmanews.tv, 5-20-2009).

Alagad Party-List Rep. Rodante Marcoleta calls for amendment in the said law to ensure transparency in the pricing of oil products and encourage greater competition in the LPG sector. In the explanatory note of his House Bill No. 1322, he explains that "While the DOE has lately been successful in persuading most companies to implement price adjustments of liquefied petroleum products in small increments, the situation is not true for all players in the LPG business. Some players have been noted to implement the full impact of increases in the benchmark monthly contract price (CP) in Saudi Arabia at the beginning of the month, but only smaller increments are implemented during times of downward CP movements" (Marcoleta 20010). He seeks to amend Sections 14 and 19 of RA 8479 to protect the Filipino consumer from arbitrary increase in the prices of LPG being charged by the players of the LPG industry.

3. Scrap/Repeal the Oil Deregulation Law

For many stakeholders, amending the law is not enough to rectify the skyrocketing prices of oil and oil-based products; they demand for the repeal, instead. Consumer and Oil Price Watch (COPW), led by its chairman, Industrialist Raul T. Concepcion, has surprisingly echoed the call of militant groups for a return to a regulation regime. In a statement, Concepcion justifies his reason for calling for regulation, "The Department of Energy has consistently said that since the industry is deregulated, they are free to increase their prices even if Shell and Petron, as refiners, can use Mean of Platts Singapore pricing and not Dubai (which is usually cheaper) under a free market scheme and say that competition will determine pricing" (Remo 2009).

A lawmaker from the Lower House, Cagayan de Oro City Rep. Rufus Rodriguez filed House Bill 2569 aiming to repeal Republic Act No. 8479, arguing that instead of fostering a competitive market, the law has only strengthened the oil cartel in the country and brought the oil prices up. The bill also seeks to re-establish the Oil Price Stabilization Fund. He argues that dominant oil companies still dictate the price because even new oil industry players get their supply from the giants (Rodriguez 2010).

Militant groups and other non-government organizations have staged rallies and strikes all over the country in opposition of the deregulation policy. Kilusang Mayo Uno (KMU), one of the country's prominent labor groups, contests that cartelization still exists amidst deregulation. In lieu of the weekly increase in oil prices in February of this year, militant group says that petroleum products are overpriced by P6 per liter but the government is not even investigating this. The Oil Deregulation Law which allows the oil cartel to jack up prices at will and rendering the government useless for controlling oil prices should repealed" (Soluta 2011).

4. Removal of 12% VAT on Oil

Known proponent of this is former Senator Mar Roxas who publicly said that government must take heed to the popular call to remove the 12% value-added tax (VAT) on oil and oil-based products as prices continue to go up despite the lowering of oil prices in the world market. Roxas filed Senate Bill No. 1962. However, in her eighth State of the Nation Address (SONA), former Chief Executive Arroyo stated that it would be the poor who will suffer the most from the removal of VAT on oil and electricity as this will mean the loss of P80 billion in programs being funded by her tax reform (Arroyo 2008).

5. Alternative Sources of Energy.

While many have engaged themselves in the long-running debate about amendment vs. repeal of the law, a number of stakeholders argue that Philippine government must, instead, focus on alternative sources of energy to rectify the heavy dependence on imported oil. Senator Juan Miguel Zubiri, now considered "Father of the Philippine Biofuels Bill," has hyped biofuel as the miracle product which can lower oil prices. But more and more scientists are worried that focusing on biofuels could jeopardize food production.

The Philippine LaRouche Society, an increasingly influential think tank organization in the country today, avers that biofuel advocacy is a losing proposition as it competes with food production for human consumption. The organization calls, instead, for the revival of the Bataan Nuclear Power Plant (BNPP) as soon as possible to provide the population with a cheap, reliable, and continuous source of power to subsequently free the people from dependence on oil. The organization maintains the position that since that move will require huge financial requirements, the Philippine government must, therefore, declare a moratorium on foreign debt payments—since much of which are onerous and merely product of “bankers arithmetic” (Billington 2005). Former Rep. Mark O. Cojuangco echoes the same view when he filed House Bill No. 4631, which subsequently evolved into House Bill No. 6300, authorizing the immediate re-commissioning and commercial operation of the Bataan Nuclear Power Plant (BNPP) not just to free the nation from dependence on oil, but to safeguard the people as well from the threat of power shortage and global warming as a result of fossil fuel burning to generate electric power.

6. Country-to-country Oil Agreement

The Philippine LaRouche Society has long been proposing to the government to initiate immediate steps to establish bilateral contract agreements with oil-producing countries on government scheduled deliveries of not less than 12 months at reasonable and fixed prices. Government can also enter into commodity-swap agreements with oil-producing countries. The said advocacy organization believes that the Philippine government, as a member of the United Nations and other intergovernmental associations like APEC and WTO, should join the growing worldwide call for a fair and honest oil trading by de-listing oil as a commodity traded in the futures market.

C.2 Responses of Selected Key Respondents

The analyst was able to conduct open-ended, in-depth interview with five respondents. This issue paper respects the confidentiality of the views and personality of the informants. Their names are not disclosed and only their affiliation, as permitted, is mentioned here for ethical purposes. The first respondent is an officer of the House Committee on Energy, serving the Congress and the people for almost a decade now. The second respondent is also a government authority heading an important office that deals with oil industry management at the Department of Energy. The third respondent is a “physical economist” and a chairman of a non-stock, non-profit, think-tank organization. The fourth informant is a chairman and CEO of an oil company and also a chairman of an association of new oil companies in the country. The fifth respondent is an economist, college dean in a state university, and an officer of an internationally recognized association of professional economists in the country. The order of their reference in this study is not based on the value of their views or their personality, but on the lineup of their interview schedule.

An interesting fact to note in Matrix 1 is the various and contrasting responses of the informants on the issue of the hindering factors concerning oil pricing, industry competition, and enforcement of the deregulation law.

Matrix #1. Hindering Factors in Achieving the Social Policy Objectives of Deregulation

Respondents	Concerning Pricing				Concerning Competition					Concerning Enforcement	
	Factor A1	Factor B1	Factor C1	Factor D1	Factor A2	Factor B2	Factor C2	Factor D2	Factor E2	Factor A3	Factor B3
R1	X		X	X				X			X
R2	X		X	X				X			X
R3			X	X							
R4	X		X	X		X		X		X	
R5	X	X	X	X	X	X		X		X	

Legend:*X – response/answer**R1- Respondent #1**R2- Respondent #2**R3- Respondent #3**R4- Respondent #4**R5- Respondent #5****Factor A1-** Supply and demand****Factor B1-** Unfair pricing formula by the oil players****Factor C1-** Speculation****Factor D1-** Devaluation of peso in relation to the dollar****Factor A2-** Heavy Tax on Oil****Factor B2-** Smuggling and substandard products****Factor C2-** Cartel****Factor D2-** Confidence of the investors in the Philippine economy and politics as a whole****Factor E2-** Strict government monitoring and compliance requirements****Factor A3-** Ineffective government monitoring****Factor B3-** Limited authority of the monitoring-arm of the government*

On the issue of hindering factors concerning oil price, R1, R2, and R4 have the same view on the matter. To them, the law of supply and demand, the exchange rate, and the speculation in the futures market are the three main drivers of the price of oil. They recognize that any changes in international oil production, which is most of the time politically influenced by the Organization of the Petroleum Exporting Countries (OPEC), directly affect pump prices. They are also aware of the fact that the oil speculation in the international futures market greatly impacts the prices of oil and creates crisis all over the world. Since speculation happens outside the boundary of the Philippines, the two government authorities acknowledge that the oil crisis is beyond government's control. Furthermore, R1, R2, and R4 argue that since the country practically import all the country's oil requirements, the oil product price increases are mainly caused by the peso devaluation.

The argument of the three informants is also recognized by R3 and R5. However, R5 as an economist also recognizes that the pricing formula of the oil companies may potentially affect the prices of oil products—although she admits she has no substantial proof of it. R3 argues, on the other hand, that off all these factors, it is the speculation in the futures market that not just affects the prices, but creates a global oil crisis. He justifies it by citing a significant fact in recent past in which the world overproduced oil, yet still in the midst of an oil crisis that is of historic proportions brought about by exuberant speculation in the futures oil market.

On the issue of hindering factors concerning competition, R1, R2, R4, and R5 recognize that the lack of confidence of the investors in the Philippine economy and politics as a whole is a potential hindering factor for the policy to fail to foster competition in the oil industry. The individual responses of R1, R4 and R5 concerning competition only entail that government through its comprehensive economic planning must create an environment where investors will find it easy to invest and compete. That way the people can feel the boon from all the industries in the Philippines including that from oil. R2, on the other hand, argues that the unjustified accusations of some politicians and advocacy groups—that is, that DOE has been remiss to its lawful mandate—give a signal to investors that government is not ready for free market.

R4 and R5 also recognize that smuggling and the proliferation of adulterated, substandard oil petroleum products in the market impact competition. The relatively high tax imposed on new oil players doesn't encourage investors, according to R5. Thus, it is seen as a hindering factor that prevents more competitors to come into the industry. R3 doesn't have definitive response on this issue as he doesn't believe on the premise that deregulation brings real competition.

On the issue of hindering factors concerning enforcement, both R4 and R5 are under the impression that the government is lacking the force of law that can bring the smugglers and vendors of substandard oil products to the court of justice. On the other hand, the individual responses of R1 and R2 imply that the general public has high expectations or demands from the enforcer of the law. And because most of these expectations or demands are beyond the domain of RA 8479, the public has the conjecture that government is a failure. R2, however, clarifies that the perceived "failure" is actually not because government is negligent but because it is without authority. R3 has again no response on this issue concerning enforcement because of his belief that a "failed" deregulation policy can never be effectively and successfully enforced.

Other significant variables in this issue paper that are worth looking into are shown in Matrix #2. It is interesting to note that the respondents' views on the issue concerning the policy options and their desired strategies for implementation are well-meaning.

Matrix #2. Policy Options and Strategies for Implementation

Policy Options and Strategies for Implementation						
	Option #1	Option #2	Option #3	Option #4	Option #5	Option #6
R 1	X Proposed Strategy: Still subject to on-going inquiry of the House Committee on Energy				X Proposed Strategy: Strengthen the exploration and exploitation of the country's own sources of energy.	
R 2					X Proposed Strategy: Strengthen the exploration and exploitation of the country's own sources of energy.	X Proposed Strategy: Bilateral agreement with oil producing countries for discounted, long-term oil contracts
R 3			X Proposed Strategy: Have full control of the industry and create an environment of fair market, not free market.		X Proposed Strategy: Upgrade and revive the Bataan Nuclear Power Plant as the most cost efficient source of energy to date	X Proposed Strategy: Bi-lateral contract agreements with oil producing countries of not less than 12-month government scheduled deliveries, at reasonable, fixed-prices
R 4	X Proposed Strategy: Strengthen the monitoring on smuggling and substandard oil and oil-based products					
R	X			X	X	

5	Proposed Strategy: Strengthen the monitoring on smuggling and substandard oil and oil-based products		Proposed Strategy: Tax exemption for oil products or reduced tax for potential oil players to encourage their entry into the market	Proposed Strategy: Strengthening the exploration and exploitation of the country's own sources of energy.	
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Legend:

X - response/answer

R1- Respondent #1

R2- Respondent #2

R3- Respondent #3

R4- Respondent #4

R5- Respondent #5

Option #1- Continue deregulation with the strengthening of the DOE-DOJ task force

Option #2- Amendment of the Deregulation Law

Option #3- Scrap/repeal the Oil Deregulation Law

Option #4- Removal of VAT on oil

Option #5- Alternative sources of energy

Option #6- Country-to-country oil agreement

R1, R2, R4 and R5 are evidently in favor of the deregulation policy. The four are concerned with the safety, quality, and fair competition. R1 articulates that there are a number of proposals at the House of Representatives aiming at strengthening the role of government under the deregulation regime to foster fair prices and adequate, continuous supply of environmentally-clean and high quality petroleum products. R1's views are echoed by the response of R2 who is coincidentally in government as well. R2 maintains that through DOE, the Oil Deregulation Law is working for the country and that the law has created a healthy competitive environment in the industry in terms of prices, quality of products and services, and improved availability of access to supply. R4 corroborates the argument that deregulation evidently works for a simple fact that government doesn't have to worry covering the losses of the oil players in the event that there is a need to adjust the prices of oil as subsidizing entails a lot of government resources —like what happened during the OSPF era. Although R4 salutes DOE for its commitment towards free market, the oilman respondent dismays the smuggling and the proliferation of substandard petroleum products in the market. Having the same observation with R4, R5 believes that these unfair practices have to be brought to an end since it defeats the purpose of free market competition where "leveling of the playing field" is the name of the game. R5 is also in favor of oil tax cut or reduced tax for new oil players to give them an opportunity to lead the balancing of competitive oil prices.

It is noticeable that among the respondents, only R3 has an opposing view as far as the direction of the state policy is concerned. To an economist and chairman of a non-profit, think-tank organization, the country has to reregulate the oil industry for the government to have full control

of the industry and create an environment of fair market, not free market. R3 stresses that all stakeholders involved in the deregulation policy must go beyond the issue of “regulation vs. deregulation” in order to rectify the country’s high dependence on oil. R3 proposes the revival and upgrade of the Bataan Nuclear Power Plant (BNPP) as an alternative source of energy.

R1, R2 and R5 are also open to the idea of pushing the country to the direction of nuclear power technology and the exploration and development of non-oil energy and indigenous energy resources. R1 and R2 recognize the benefits of a nuclear power plant. R1 mentions the pending House Bill in Congress, authored by Pangasinan Representative Mark Cojuangco, which mandates immediate rehabilitation, commissioning and commercial operation of the BNPP. On the other hand, R2 emphasizes that nuclear is always a potential option seen by the DOE. According to R2, however, the energy department gives special preference to renewable sources of energy for now since the promise of nuclear technology is still subject to not just scientific debate, but also social, political, and environmental discourse. Also, the respondednt from DOE shows concern over the financing of the nuclear technology. Recognizing that the oil crisis is a global one, R3 argues that only a comprehensive nuclear energy development program, as the most cost-efficient energy system to date and scientifically proven safe, will put an end in the country’s oil dependence. He points out that government must declare debt moratorium on foreign debt as a strategy. As proposed, government must direct enough funds, instead for debt servicing, towards the revival and upgrade of BNPP. Removal of the entire E-VAT, not only on oil, must also be taken into consideration to ease the pain of the Filipino people. By moratorium, government doesn’t have to increase taxes or impose belt-thighthening measures to have the means to fund its nuclear program.

R2 and R3 recognize also the need for the Philippine government to negotiate directly with the oil producing countries on the issue of the country’s oil supply. Both respondents agree to the idea of having bi-lateral agreements with oil-producing nations that can provide the Philippines with long-term oil contracts at reasonable, fixed prices. Working with the past administration, R2 attests however that former President Gloria Macapagal-Arroyo attempted to gain agreement with some oil-producing countries so many times in different international occasions. But it seems to her that it is always a futile attempt of the Philippine government to negotiate with big oil-producing countries.

C.3 Analysis of Alternatives

To the general public, oil deregulation as a policy has obviously failed to foster a truly competitive market towards fair prices and adequate, continuous supply of environmentally-clean and high quality petroleum products. The proposed solutions #1 (Effective implementation of the law and intensifying the social responsibility of the oil companies) and #2 (Amendment of the Deregulation Law) could produce positive result, but they will still not resolve the crisis as it is proven to be systemic in nature. The proposed solutions #3 (Scrap/Repeal the Oil Deregulation Law) and #4 (Removal of 12% VAT on Oil) look like to be better options. But repealing the Deregulation Law and removing the tax are not the ultimate answer to the rise in oil prices. Even if the law is repealed and taxes on oil are removed, the Philippines will still be subjected to the same factors—a rise in oil prices in the global market.

Proposed solution #6 (Country-to-country Oil Agreement) can address the issue of the oil crisis at the international level. How about the efforts to solve the crisis at the national level? Proposed solution # 5 (Alternative Sources of Energy) can solve oil dependence or redound to energy self-sufficiency. As proposed, the Philippine government must revive the Bataan Nuclear Power Plant to provide the population with a cheap, reliable, and continuous source of power to subsequently free the nation from over dependence on oil. The government must direct enough funds, instead for debt servicing, towards the revival and upgrade of BNPP. Removal of the entire E-VAT, not only on oil, must also be taken into consideration to ease the pain of the Filipino people. By moratorium, government doesn't have to extract a pound of flesh out of every Filipino to have the means to fund its programs.

From the standpoint of the present administration, amending RA 8479 seems to be difficult to adopt because re-regulating the oil industry would mean subsidizing oil prices—something like OPSF. To many, this could not work in an era of rising crude prices because it would entail government resources. This is where debt moratorium comes in as an effective fiscal strategy. But moratorium, to many skeptics, is unwise because they fear the blackmail or retaliation of the multinational creditors. Philippine leaders and policymakers, however, must learn how then President Nestor Kirchner of Argentina defied the predatory financial institutions, averring that “There's life after the IMF.”

On the other hand, many politicians are hesitant of initiating country-to-country oil agreement as giant oil companies still have strong influence on the policy-making process in the

country. For the oil companies, it will be a huge loss if government asserts its power to have a bilateral agreement with any of the oil-producing country. Also, many leaders consider the Philippines as a small nation with no voice in the international assembly. Idealists argue, however, that it is a matter of having “big balls,” to put it in a figurative language. After all, they are the leaders and are mandated by the Constitution to protect and promote the general welfare.

Another peculiarity of the Philippine policy system is the negative perception towards nuclear energy. Many policymakers, including a number of academicians, are dumbed down to believe the stigma that nuclear technology is environmentally dangerous and a “corrupt” idea.

IV. ADOPTION AND IMPLEMENTATION

A. Conclusion

Oil deregulation as a policy of the state does not guarantee either lower or fair prices of oil. As a commodity traded in the futures market, oil is extremely subject to speculation. Highly-leveraged speculation occurs outside the boundary of the Philippine jurisdiction. This is the reason why government publicly admits that the skyrocketing prices of oil products are beyond its control. Although government reports suggest development in the competition and investment under the deregulation regime, that doesn’t satisfy the public as a growing number of people are opposing the policy.

Calling for re-regulation of the oil industry is an obvious option that the opposition groups would want to propose. But regulation itself cannot assure that the country will be saved from the clutches of speculators. A more intelligent, out-of-the-box, and revolutionizing strategy is required. Having said this, the analyst concludes that:

- The dynamics of the oil deregulation is so complex. A decade after the lawmakers passed deregulation, the Philippines is still vulnerable to oil price shocks due to its dependence on imported oil. The promise of deregulation policy to foster the social policy objectives of fair prices and adequate, continuous supply of environmentally-clean and high quality petroleum products is still in question.
- As opposed to the generally accepted factor for the skyrocketing prices of oil—that is, the law of supply and demand— the main reason is due to speculation. The peso devaluation is

also a factor. But even the peso revaluates in relation to the dollar, the Philippines can still feel the effect of unfair prices due to speculation in the futures commodity market.

- It is concluded that the government should adopt a comprehensive energy planning that will ensure development and exploration of its own energy resources. Through this, the Philippines will no longer be dependent on imported oil.
- For a successful comprehensive energy planning that will ensure development and exploration of the country's own energy resources, this issue paper concludes that such program will require a lot of government resources. Although the government is open to that idea, the main concern is still the financing and the social acceptance of the highly controversial BNPP.

B. Recommendations for Implementation

There is only one economic and political criterion taken into consideration in forming the analyst's recommendations—that is, the long-term oil dependence that the best policy option(s) can bring to the nation. The analyst therefore recommends that government must strengthen its exploration and development of its own energy resources program with special preference to nuclear power technology at the soonest possible time. To seriously and permanently put an end to the country's oil dependence, the Philippine government must reconsider nuclear power technology as this has been scientifically proven to be the most cost-efficient and eco-friendly source of energy to date.

BNPP has been stigmatized as environmentally dangerous and associated with "corruption." The fact of the matter is that the technology has already evolved and been modernized. The Philippine government spent \$2.3 billion to build BNPP without generating a kilowatt of electricity. It is high time to revisit the old strategy to finally free the country from dependence on imported oil. It is worth mentioning here that the International Atomic Energy Agency inspected the power plant in Bataan in 2008 and reported that this could be rehabilitated, in full compliance with high international safety environment standards, in at least five years at a cost of \$800 million (Burgonio 2008).

As a fiscal strategy, this policy issue paper puts emphasis on the importance and urgency of declaring debt moratorium to start the rehabilitation. The Philippines is servicing the debt over US

\$10 billion per year, which is more than enough to start the full operation of BNPP. Moreover, the analyst recommends that while the country is still in the process of developing its own nuclear power facilities, the government must establish bilateral contract agreements with oil-producing countries on government scheduled deliveries of not less than 12 months at reasonable and fixed prices. The Philippine foreign diplomats and policy makers must also join the growing worldwide call to de-list oil as a commodity traded in the futures commodity market.

The analyst acknowledges the fact that this issue paper is just the first phase in finding real and long-term solution to the problem. To better understand the unanticipated consequences and benefits of the proposed solution, the analyst further recommends to future researchers and policy analysts a thorough study on the (1) multiplier effects of the nuclear power plant, as a science driver, on the Philippine economy; (2) possible impact of debt moratorium on the Philippine economy with comparative analysis on the impact of debt moratorium on the economy of other countries that declared moratorium like Argentina; and (3) how to run effective educational campaign about nuclear power technology.

To summarize, the issue here is not deregulation vs. regulation. The true issue is how the country can free itself from the dependence on highly-speculative nature of imported oil. The crisis, which we now face as a nation, requires intelligent understanding of the problem and courageous act to do what is right for the benefit of the present and future Filipino generations.

APPENDICES

Date

Dear Sir/Madam:

The undersigned, a graduate student taking up Master of Public Management at the University of the Philippines Open University, is currently conducting a policy research entitled "Philippine Oil Deregulation: A Policy Options Paper."

The main purpose of the said policy research is to characterize the dynamics of the Philippine oil deregulation and determine why a number of stakeholders perceive that this policy is not meeting its objective of fair prices and adequate, continuous supply of environmentally-clean and high quality petroleum products.

In line with this, the researcher would like to know your views on this subject. Particularly, the researcher would like to know your insights on the following:

1. Factors that hinder the oil deregulation law to foster a truly competitive oil industry market.
2. Policy options you have presented or advocated that can better achieve the social policy objectives of fair prices and adequate, continuous supply of environmentally-clean and high quality petroleum products.
3. Strategy for implementation that has to be adopted for the policy option/s that you advocated.

Your views are important to this research for the betterment of the oil industry and our society as a whole.

I am looking forward to have an interview with you any day this week to gather detailed information about the subject. Should you have questions or clarification, please don't hesitate to contact me at 09186610099 or email me at mumarlou@gmail.com.

Your positive response will be greatly appreciated.

Respectfully,

Marlou B. Mumar

INTERVIEW GUIDE

There are three major questions that have to be answered during the interview. These are:

- 1. Factors that hinder the oil deregulation law to foster a truly competitive oil industry market.*
- 2. Policy options you have presented or advocated that can better achieve the social policy objectives of fair prices and adequate, continuous supply of environmentally-clean and high quality petroleum products.*
- 3. Strategy for implementation that has to be adopted for the policy option/s that you advocated.*

Note: The interview can be decently informal or formal. Below is the suggested scripting and flow of discussion:

Before we start the interview, Sir/Ma'am, for recording purposes, may you please state your complete name, the organization you are affiliated with and your position?

Thank you, sir/ma'am, for having me this opportunity to interview you. By the way, this interview is part of the data gathering stage of the policy research entitled "**Philippine Oil Deregulation: A Policy Options Study**" to be submitted to the Faculty of Management and Development Studies at the University of the Philippines Open University.

To start off, I am sure that you are aware of the fact that the public perception of the oil deregulation law is that it is the cause of the oil price hike. To many of them, the law has to be scrapped. But on the other side of the coin, there are other groups saying that the oil deregulation as a policy is the right policy of the state. Now despite of these two contrasting positions (the anti and the pro), there is one thing that these two opposing groups agree on—that is, there are factors that hinder the oil deregulation law to foster a truly competitive oil industry market.

To your knowledge and understanding of the dynamics of the oil deregulation policy, what are these factors? Why? *(Just go with the flow. You may insert sub-questions if necessary)*

Do you have policy options you have presented or advocated that you think can better achieve the social policy objectives of fair prices and adequate, continuous supply of environmentally-clean and high quality petroleum products? *(Just go with the flow. You may insert sub-questions if necessary)*

For the policy option/s you mentioned, do you have any suggestion on how we can strategize an effective implementation? *(Just go with the flow. You may insert sub-questions if necessary)*

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